

HOUSE BILL 2736
By Scroggs

AN ACT to amend Tennessee Code Annotated, Title 16, Chapter 15
and Title 17, Chapter 2, relative to substitute or special
judges in general sessions and juvenile court.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 16-15-209, is amended by deleting
the section in its entirety and substituting instead the following:

(a) If, for good cause, including, but not limited to, by reason of illness, physical
incapacitation, vacation or absence from the county on a matter related to the judge's
judicial office, the judge of a general sessions or juvenile court is unable to hold court,
such judge shall appoint a substitute judge to hold court, preside and adjudicate.

(b) A substitute judge shall possess all of the qualifications of a judge of the
court in which the substitute is appointed.

(c) No substitute judge may be appointed for a period of more than three (3)
days; provided, that any such judge appointed pursuant to this section may finish any
trial that is commenced during the period of appointment.

(d)

(1) Except for attorney fees which shall be governed by subsection (d)(2)
of this section, a substitute judge appointed pursuant to this section shall have no
authority to award fees except those that are statutory.

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(2) A substitute judge shall not approve the payment of attorney's fees involving an indigent defense claim or any discretionary fees except that a substitute judge may approve attorney fees when the exact amount is set by statute or when the party to be charged has signed an agreement calling for the payment of attorney fees, and said fees shall be the amount specified in the contract, but in no case more than one-third (1/3) of the principal amount of the debt upon which the suit is brought.

(e) A substitute judge shall not preside over a cause without a consent form signed by all litigants who are present at the beginning of the proceeding. Such consent form shall plainly state that the substitute judge has not been duly elected by the citizens of the county or appointed by the county legislative body but has been appointed pursuant to this section. The consent form shall include the name of the lawyer appointed as substitute judge, the judge of the court in which such substitute judge is sitting, the date for which the substitute judge was appointed, and the reason for the regular judge's absence. The consent form shall be transmitted and maintained on file for public inspection at the administrative office of the courts in Nashville.

(f) The provisions of subsections (a)-(e) shall not apply where a judge finds it necessary to be absent from holding court, and appoints as a substitute judge:

(1) A duly elected or appointed judge of any other juvenile or general sessions court, a trial court judge; or

(2) A full-time officer of the judicial system under the judge's supervision whose duty it is to perform judicial functions, such as a juvenile referee, a child support referee or clerk and master, who is a licensed attorney in good standing with the Tennessee supreme court. Such judicial officer shall only serve as substitute judge in matters related to that officer's duties as a judicial officer.

Notwithstanding the provisions of subsections (a)-(e), a general sessions or juvenile judge shall have the authority to appoint a substitute judge as provided in this subsection.

SECTION 2. Tennessee Code Annotated, Section 17-2-122, is amended by deleting the section in its entirety.

SECTION 3. This act shall take effect July 1, 1998, the public welfare requiring it.